



# **Sydney Stingers Water Polo Club**

## **Trans & Gender Diverse Inclusion Policy**

**October 2019**

## Abstract

Sydney Stingers Water Polo Inc. is committed to providing a safe space for trans, gender diverse and intersex people to play water polo, and seeks to ensure that members do not experience unjust discrimination or harassment while training with the club and playing in the Water Polo NSW (WPNSW) competition and other competitions in which we participate.

This policy illustrates how the Sydney Stingers demonstrates inclusion and support for Transgender and Gender Diverse members. The policy demonstrates the need for TGD inclusion, outlines both practical inclusion and protection against possible discrimination based on sex and/or gender identity.

<b>Dates</b>	Policy or amendment approved [12/10/2019] Policy or amendment takes effect [12/10/2019] Policy is due for review (up to 5 years) [06/2024]
<b>Approved by</b>	Annual General Meeting, Oct. 12 2019
<b>Implementation Officer</b>	Executive Committee
<b>Relevant to</b>	All members, coaches & officials of Sydney Stingers Water Polo, Inc.
<b>Related documents</b>	<a href="#">Sydney Stingers Code of Conduct</a> <a href="#">Australian Human Rights Commission - Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport</a> (June 2019) <a href="#">WPNSW Member Protection Policy</a> (June 2016) <a href="#">Gender Diversity Policy – Flying Bats Women’s Football Club</a> (August 2016)
<b>Review notes</b>	This policy should be reviewed every 5 years and the Stingers Code of Conduct should also be reviewed
<b>Follow-up required by Policy</b>	Sensitivity training for players, coaches, referees, club members Sydney Stingers code of conduct update Safe Space training at Ryde Aquatic centre (run by ACON) Gender-affirming swimwear options for all players (e.g. mens swimwear that is appropriate for trans men without chest surgery)
<b>Acknowledgements</b>	This policy is adapted from the work of the Flying Bats Women’s Football Club’s Gender Diversity Policy 2016, and we acknowledge and thank the Flying Bats for their work and support.

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## Background

Strong evidence exists that trans, gender diverse and intersex people face significant barriers to participation in sports, and when they do participate, they frequently face discrimination and harassment. A report on LGBT experiences in sport in the state of Victoria indicates “[t]ransgender participants identified a number of ways in which they were excluded associated with their gender identity, and the more rigid and traditional interpretations and organisation of gender in sport”<sup>1</sup>. As gender is a strong organising feature in sport, and drives expectations about how people should act and appear, the report concluded that “transgression from [...] norms around gender and sexuality is punished in sport, and particularly in team sport”<sup>2</sup>. The report found “experiences of discrimination based on this ignorance and prejudice, a lack of policies to enable their participation in sport, concerns with using change rooms, and being accepted and fitting in”<sup>3</sup>. The experience of gender diverse players outside of Victoria is not different. In the ACT, the Inclusive Sport Survey 2014 found that most people surveyed were ‘not out’ regarding their sexuality and/or being transgender<sup>4</sup>. Furthermore, the survey found that 40.8% of respondents had felt unsafe in a sporting environment, and that 58.4% did not know if their club or recreation provider had anti-discrimination policies regarding sexual orientation, gender identity or intersex status.<sup>5</sup> In 2015, the Australian Human Rights Commission<sup>6</sup> launched a national survey on the participation of trans, gender diverse and intersex people in sport to ensure their rights are protected in the policies and practices of sporting codes. In announcing the survey, then Human Rights Commissioner Tim Wilson acknowledged that while some “transgender, gender diverse and intersex people reported positive experiences in sport participation; others said they have experienced exclusion, violence and harassment on the basis of their gender identity or intersex status”.<sup>7</sup>

The Australian Human Rights Commission’s Sexual Orientation, Gender Identity and Intersex (SOGII) Rights Report notes that lived experience of unjust discrimination can significantly limit an individual’s sense of security to publicly participate in sports<sup>8</sup>.

## Legal Responsibilities

The Australian Human Rights Commission’s Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport<sup>9</sup> outlines how clubs have a duty to take reasonable and proportionate steps to prevent discrimination, sexual harassment and victimisation under anti-discrimination law, including the Commonwealth Sex Discrimination Act 1984. This duty

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<sup>1</sup> Symons et al 2010, pp 9

<sup>2</sup> Symons et al 2010, pp 7

<sup>3</sup> Symons et al 2010, pp 7

<sup>4</sup> ACT Government 2014, pp 6

<sup>5</sup> ACT Government 2014, pp 6

<sup>6</sup> AHRC, 2015b

<sup>7</sup> AHRC, 2015b

<sup>8</sup> AHRC, 2015a

<sup>9</sup> Australian Human Rights Commission (2019)

focuses on eliminating the causes of discrimination, not just responding to complaints that arise. Clubs can be vicariously liable for the actions of their employees or agents. In New South Wales, additional provisions exist under the NSW Anti-Discrimination Act 1977.

## **Policy of our State Sporting Body**

Sydney Stingers is a member club of our state sporting body, Water Polo NSW (WPNSW). The Water Polo NSW Member Protection Policy (MPP) provides guidance on the inclusion of trans, gender diverse and intersex players in Water Polo. This policy acknowledges that Federal, State and Territory anti-discrimination laws provide protection from discrimination against people on the basis of their gender identity, including gender expression, appearance, mannerisms or other gender-related characteristics<sup>10</sup>.

WPNSW does not tolerate unlawful discrimination or harassment of a person because of their gender identity (including a person who is trans, is assumed to be trans, or has an association with someone who is or is assumed to be trans) or intersex status, and outlines procedures for complaints if discrimination or harassment occurs. The policy calls for sensitivity when a person is undergoing gender transition/affirmation<sup>11</sup>.

The policy commits WPNSW to “supporting participation in our sport on the basis of the gender with which a person identifies whereby all persons, regardless of gender identity or intersex status, can contribute, participate, and be treated fairly with dignity and respect”<sup>12</sup>.

## **Inclusion of Trans, Gender Diverse and Intersex Players**

Sydney Stingers is committed to providing a safe space for trans, gender diverse and intersex people to play water polo and seeks to ensure that members do not experience unjust discrimination or harassment while playing in the Water Polo NSW (WPNSW) competition and other competitions in which Sydney Stingers participates.

Sydney Stingers supports section 6.6 of the Water Polo NSW Member Protection Policy, which states that “[WPNSW is] committed to facilitating participation in our sport on the basis of the gender with which the person identifies”. As such, Sydney Stingers facilitates registrations from players regardless of their gender identity; inclusive of men, women and non-binary players. This includes trans and intersex and players.

The Sydney Stingers acknowledges that gender is not binary, and not all people are or identify as either female or male, or women or men. The club recognises that transitioning and living as a trans, gender diverse or intersex individual can be an isolating experience, and many face rejection and exclusion from various social groups (including family, work and sport) and violence and harassment from the community at large. As such, the Sydney Stingers facilitates registrations from players who:

- Are trans, gender diverse (including non-binary and genderqueer) or intersex; and/or

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<sup>10</sup> WPNSW Member Protection Policy (2016), 6.6

<sup>11</sup> WPNSW Member Protection Policy (2016), 6.6.1

<sup>12</sup> WPNSW Member Protection Policy (2016), 6.6.2

- Would not feel comfortable or safe playing for a club other than the Sydney Stingers, and their exclusion from the club would result in their exclusion from the sport.

Sydney Stingers notes that Water Polo NSW's Metropolitan Competition is currently organised by male/female gender into "open ladies" and "open men's" competition divisions. Sydney Stingers supports the right of non-binary players to compete in the competition division in which they feel most appropriate. Sydney Stingers commits to affirming each player's gender identity, including by using the player's correct pronouns and name.

## **TGD-Inclusive Swimwear, Change Rooms, and Pool Staff**

Sydney Stingers supports all TGD water polo players to use the bathrooms which they feel to be most appropriate. Sydney Stingers is committed to training our club pool, Ryde Aquatic Leisure Centre, to support TGD players to use the bathrooms of choice, including the accessible bathroom for players who do not feel comfortable in the male or female bathrooms.

Sydney Stingers supports TGD players to wear what they feel most comfortable playing and training in. For example, trans men may wish to wear a chest binder with a rash shirt on the top. Sydney Stingers encourages all players to choose the swimwear that feels right. We recognise that different players may have different needs, and we are committed to working with players and suppliers to provide gender-affirming swimwear options that can be worn across the teams. Players can choose to wear swimwear that cover their chests in support of players who cannot have their chest uncovered.

## **International & Interstate Competitions**

Sydney Stingers acknowledges the difficulty some TGD members might face while travelling. Pride in Sport states "If competitions are held in countries where LGBT(IQA+) people are persecuted or at risk, governing bodies may be indirectly discriminating against LGBT(IQA+) people as it will make it very hard for them to participate."<sup>13</sup>

As a LGBTIQA+-inclusive club, The Sydney Stingers acknowledges the impact of discrimination faced by the LGBTIQA+ population, and acknowledges the specific discrimination for TGD players who might not have gender-affirming travel documents or identification, and the specific exclusions faced in gender-policing spaces such as change rooms, showers, and in swimwear.

Sydney Stingers primarily participates in international and interstate competitions that are specifically LGBTIQ+-inclusive, such as those run by International Gay & Lesbian Aquatics (IGLA) and Gay Games; as well as the Interstate Pride Challenge matches hosted by LGBTIQ+-inclusive clubs such as Sydney Stingers, Melbourne Surge, Brisbane Tritons and Perth White Pointers. Sydney Stingers is committed to working with tournament organisers to

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<sup>13</sup> Pride in Sport (2013)

ensure that trans, gender diverse and intersex players can participate in a safe environment without discrimination or harassment.

## Perceived Advantage

Sydney Stingers recognises that each individual has different levels of hormones that affect their abilities, and that this is not specific to trans, gender diverse or intersex people. Sydney Stingers recognises the many other systemic barriers and structural disadvantages that trans, gender diverse and intersex people face in accessing sport; including barriers to accessing training, participation, membership and mentoring. As such, Sydney Stingers rejects any suggestion that trans, gender diverse or intersex people have an unfair advantage over cisgender men or women. This position is supported by a submission presented to the Australian Human Rights Commission by the Organisation Intersex International Australia (OII Australia) that: “IAAF [International Association of Athletics Federations] evidence shows that there is no scientific basis for the exclusion of men or women athletes with intersex variations”.

The WPNSW Member Protection Policy states that “if issues of performance advantage arise, we will consider whether the established discrimination exceptions for participation in sport are relevant in the circumstances. Discrimination is unlawful unless an exception applies.”<sup>14</sup>

Sydney Stingers considers the potential marginal advantage to a team of a potential marginal physical advantage of one player to be negligible. Further to this, Sydney Stingers contends that if the player in question is playing at a comparable level to other players in that division, no argument can be made that they are playing at a level at which other players cannot compete. As such, Sydney Stingers rejects that discrimination exceptions are relevant in the context of the WPNSW competition.

Sydney Stingers encourages all WPNSW member clubs to be inclusive of trans, gender diverse and intersex players. As all clubs have the same capacity to register trans, gender diverse and intersex players, Sydney Stingers does not accept that one team has an unfair advantage over any other due to the inclusion of trans and/or gender diverse players. Sydney Stingers is happy to assist other WPNSW member clubs in developing an inclusive culture within their club.

## Drug Testing & Medication

Sydney Stingers acknowledges that the WPNSW Member Protection Policy states that “Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency’s Prohibited List, should apply for a standard Therapeutic Use Exemption”<sup>15</sup>.

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<sup>14</sup> WPNSW Member Protection Policy (2016), 6.6.2

<sup>15</sup> WPNSW Member Protection Policy (2016), 6.6.2

At the time of writing, the Sydney Stingers competes in the WPNSW Metropolitan Division 2 Open Competition within WPNSW, and is not aware of any instances where players in this competition have been asked or required to submit to drug testing or to obtain a Therapeutic Use Exemption (TUE).

Sydney Stingers considers that any requirement to apply for an in-advance Therapeutic Use Exemption (TUE) constitutes a barrier to participation for trans players. We welcome the position of ASADA that players in the WPNSW competition do not need to apply for an in-advance TUE, and should only apply for one retroactively (after an anti-doping test)<sup>16</sup>.

Sydney Stingers does not support anti-doping testing that targets trans, gender diverse or intersex players. The Sydney Stingers considers any targeted testing of trans, gender diverse or intersex players to be discriminatory, and to constitute victimisation of trans, gender diverse or intersex players.

The Sydney Stingers rejects any proposition that a player's status as a trans, gender diverse or intersex player is sufficient to compel them to submit to drug testing. The Sydney Stingers contends that any drug testing within the WPNSW competition should be randomised, or required for all players in the competition.

## **Code of Conduct and Action Plan**

Sydney Stingers seeks to provide a safe and welcoming environment for transgender, gender-diverse and intersex players to socialise, train and compete in the sport of water polo. As such, we commit to:

1. Establishing a trans, gender diverse and intersex Inclusion Officer to guide and advise policy in this area and be a point of contact for TGD & Intersex members and new recruits.
2. Developing a code of conduct, sensitivity training and an action plan to guide players, referees, clubs and coaches.
3. Facilitating safe space training at Ryde Aquatic Centre.
4. Working with players and suppliers to provide gender-affirming swimwear options that can be worn across the teams.
5. Working with venues to provide safe and accessible change room facilities.

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<sup>16</sup> ASADA, 2019

## References

ACT Government (2014), 'Inclusive Sport Survey', Report, April.

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# Definitions

## Australian Human Rights Commission

The following definitions are drawn from the Australian Human Rights Commission Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport, 2019:

Gender identity is defined in the Commonwealth Sex Discrimination Act as ‘the gender related identity, appearance or mannerisms or other gender related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person’s designated sex at birth’.

For example, a person’s birth certificate may include a marker which indicates that the person’s designated sex is female when that person identifies as a man (in other words, their gender identity is that of a man).

Gender diverse is an umbrella term that includes all the different ways gender can be experienced and perceived. It can include people questioning their gender, those who identify as trans/transgender, genderqueer, non-binary, gender nonconforming and many more.

Intersex status is a protected attribute under the Commonwealth Sex Discrimination Act. Under the Act ‘intersex status’ means the status of having physical, hormonal or genetic features that are:

- neither wholly female nor wholly male
- a combination of female and male, or
- neither female nor male.

The term ‘intersex’ does not describe a person’s gender identity (man, woman, neither or both). A person born with a variation in sex characteristics may identify as a man, woman, neither or both.

LGBTQI (or variations of it) is an acronym for lesbian, gay, bisexual, transgender, queer/questioning and intersex. It is used to refer collectively to these communities. The ‘LGB’ refers to sexuality/sexual identity; the ‘T’ refers to gender identity; and the ‘I’ refers to people who have an intersex variation. ‘Q’ can refer to either gender identity or sexuality.

Non-binary is a term used to describe a person who does not identify exclusively as either a man or a woman.

Pronouns are a grammatical means of referring to a person or persons. Conventional pronouns are ‘she/her/hers’ and ‘he/him/his’. Some people prefer to use gender neutral pronouns, such as ‘they/them/their’. The pronoun a person uses to describe themselves generally reflects their gender identity.

Sex refers to a person's biological sex or sex characteristics. These may be genetic, hormonal, or anatomical.

Transgender (commonly abbreviated to 'trans') is a general term used to describe a person whose gender identity is different from the sex they were assigned at birth. Being transgender is about how an individual describes their own gender. It is not necessarily about their biological characteristics. A person whose birth certificate originally described them as female, who now identifies as a man, may use the labels 'trans', 'trans man' or 'man'. Similarly, a person originally described on their birth certificate as male, who now identifies as a woman, may use the label 'trans', 'trans woman' or 'woman'.

Transition or affirmation refers to the social, medical or legal steps that a transgender person takes to affirm their gender identity. A transition or affirmation may or may not involve medical treatment, including surgeries or hormone therapy. People can transition as children or as adults. Each transition is different.

## **Water Polo NSW**

The following definitions are drawn from the Water Polo NSW Member Protection Policy, 2016.

Sexual orientation The term 'sexual orientation' refers to a person's emotional or sexual attraction to another person, including, amongst others, the following identities: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.

Transgender 'Transgender' is an umbrella term that refers to a person whose gender identity is different to their physical sex as recorded at birth. Transitioning refers to the process where a transgender person commences living as a member of another sex. This is sometimes referred to as the person 'affirming' their gender because transitioning means they start living in what they identify as their true gender. For people who are transitioning/affirming their gender, having their identity fully recognised in all areas of life is a crucial part of the experience of living as their affirmed gender.

Victimisation means treating someone unfairly or unfavourably, or threatening to do so, because that person has, or intends to, pursue their right to make any complaint, including a complaint under government legislation (e.g. anti-discrimination legislation) or under this policy, or for supporting another person to make complaint.

Vilification means behaviour that occurs in public, which incites hatred towards, serious contempt for, or revulsion or severe ridicule of a person or group of people because that person or persons have a particular personal characteristic. Anti-discrimination laws in Australia make it unlawful to vilify a person or group of persons on the basis of race, religion, homosexuality, transgender status and HIV/AIDS status.